

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

**RURAL WATER SYSTEM
NUMBER 1**

**ADMINISTRATIVE
CONSENT ORDER
NO. 2011-WS-02**

Water Supply Facility No. 8400722

**TO: Steve Hunt, President
Rural Water System Number 1
4718 Monroe Avenue
Granville, Iowa 51022**

**Robert Harten, Registered Agent
Rural Water System Number 1
4438 380th Street
Hospers, Iowa 51238**

I. SUMMARY

This administrative consent order (order) is entered into between Rural Water System Number 1 (Rural Water) and the Iowa Department of Natural Resources (Department). Rural Water agrees to obtain all construction permits required by the Department prior to construction and to pay a penalty of \$2,000.00. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions or responses regarding this order should be directed to:

Relating to technical requirements:

Julie Sievers
Environmental Specialist Senior
IDNR Field Office No. 3
112 W. 5th Street, Suite 3
Storm Lake, IA 50588
Ph: 712/732-8350

Relating to legal requirements:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
Henry A. Wallace Building, 502 E. 9th St.
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

Payment of penalty to:

Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034

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II. JURISDICTION

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The parties agree to the following statement of facts.

1. Rural Water is a community public water supply system that operates in northwest Iowa. The facility obtains water from eleven deep wells from the Sioux Center wellfield, wells no. S-2 (1975), no. S-3 (1979), no. S-5 (1993), no. S-6 (1995), no. S-7 (2000), no. S-8 (2000), no. S-9 (1980), no. S-1R (2007), no. S-10R (2007), no. S-11 (2008), and no. S-12 (2008). The water is treated in one of two plants, plant no. 2 or plant no. 3. Water from the Sioux Center wellfield (the S wells) can be transmitted to either plant. The City of Sioux Center wells no. 14 (1992) and no. 15 (2005) are interconnected with the Rural Water system as emergency standby sources. These wells can pump to the Rural Water treatment plant if needed.

Treatment at plant no. 2 consists of forced draft aeration, potassium permanganate addition for chemical oxidation, detention, and four greensand and anthracite filters for iron and manganese removal, blended phosphate addition for corrosion control and sequestering, and gas chlorination for disinfection. Finished water storage consists of one 75,000 gallon clear well and one 250,000 gallon reservoir at the plant.

Treatment plant no. 3 has two treatment trains. Treatment on the west side consists of forced draft aeration, potassium permanganate addition for chemical oxidation, detention, and two greensand and anthracite filters for iron and manganese removal. Treatment on the east side consists of forced draft aeration, potassium permanganate addition for chemical oxidation, detention, and a two-cell pressure filter with LayneOx media for iron and manganese removal. The filter effluent from both sets of filters flows to two ground storage reservoirs, one with a capacity of 388,000 gallons and a second, more recently-built one with a capacity of 499,000 gallons. These ground storage reservoirs float together. The water is disinfected with gas chlorination at two points, one between each reservoir and the high service pumps. A blended phosphate is added between the 499,000 gallon reservoir and the high service pumps.

This system has three booster stations. These are booster stations only and have no chemical feed. Distribution system storage and pressure are provided by elevated storage towers. Tower A, located near Granville, has 75,000 gallons of storage. Tower

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B, located near Archer, has 30,000 gallons of storage. Tower D, Little Tower, located near Newkirk, has 75,000 gallons of storage. Tower D, Big Tower, located near Newkirk, has 500,000 gallons of storage. Tower E, located north of Sioux Center, has 100,000 gallons of storage. Tower Little F, located west of Sioux Center, has 75,000 gallons of storage. Tower Big F, located west of Sioux Center, has 500,000 gallons of storage. Additional ground storage is provided by a 200,000 gallon reservoir near Sioux Center, a 423,000 gallon reservoir near Newkirk, and a 712,000 gallon reservoir at the plant no. 1 booster. Total storage is 3,902,000 gallons with 1,355,000 gallons of elevated storage and 2,547,000 gallons of ground reservoir storage. Tower C, located near Boyden, with 50,000 gallons of storage, and the ground storage at plant no. 1, with 50,000 gallons of storage, are currently inactive.

This system provides all of the water to the City of Hospers, PWSID 8439058, and the City of Granville, PWSID 8429002. It also provides all the water to Sioux Preme Packing, PWSID 8486181.

This system and the City of Sioux Center, PWSID 8486053, have two interconnections. Currently these interconnections are used on a regular basis, but less than 30 days per year. This system has two interconnections with the Rock Valley Rural Water System, PWSID 8482701. These are emergency interconnections.

This system has a second wellfield, known as the Hudson wellfield that is located in western Sioux County east of Hudson, South Dakota. Most of this wellfield is now in CRP and thousands of trees have been planted around it. This wellfield is for future growth and the development of the wellfield will occur in the future.

This system has a third wellfield, known as the plant no. 1 wellfield, that is located in eastern Sioux County between Hospers and Sheldon. A construction permit has been issued for the first seven wells. A treatment plant is being constructed at the plant no. 1 site utilizing some of the existing infrastructure and new construction. The construction permit application for this treatment plant, known as plant no. 1, was issued on May 24, 2010, and start-up of this plant was scheduled to occur in late September, 2010, and has since been pushed back to January 1, 2011. Water from this plant will be blended with water from plant no. 2 and plant no. 3.

2. On December 18, 2009, Julie Sievers, Department Environmental Specialist Senior at Field Office No. 3 (FO 3), conducted well site surveys for eight shallow wells and one deep well in the plant no. 1 wellfield.

3. On March 26 and March 29, 2010, Ms. Sievers conducted the sanitary survey for the Rural Water public water supply. The plant no. 1 project was discussed as part of the inspection.

4. On April 2, 2010, Ms. Sievers verified the plant no. 1 well sites at the request of Bob Campbell, Department Water Supply Engineer. The information submitted by the

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system's engineer, DGR, did not match the well sites that had been surveyed in December.

5. On April 8, 2010, Department water supply construction permit no. 2010-176W was issued for the construction of 10,000 feet of 20", 11,040 feet of 16", 15,040 feet of 12", and 10,920 feet of 6" PVC water main, as well as for six shallow public wells, one deep public well, and all associated appurtenances and connecting piping. This construction permit specifically noted: "This construction permit does not include production wells PL1-7 and PL1-8. Proof of legal control of the land for a 200-foot radius around these well sites must be submitted to the department prior to allowing the construction permit to progress for production wells PL1-7 and PL1-8."

6. On August 31, 2010, Ms. Sievers visited Rural Water and conducted a new plant visit at plant no. 1. The construction was nearing completion and start-up of the plant and wellfield was scheduled to occur in mid- to late September, 2010. Ms. Sievers asked for copies of the drillers' logs and "new well" results for the wells. On September 15, 2010, Randy Iedema, the Manager of Rural Water, emailed the drillers' logs for the plant no. 1 wells. The logs were for seven shallow wells and one deep well and included logs for wells PL1-1 through PL1-8. On September 15, 2010, Ms. Sievers had a telephone conversation with Mr. Iedema. He stated that wells PL1-7 and PL1-8 were constructed and he did not realize that he did not have a construction permit for those two wells. On September 15, 2010, Mr. Iedema submitted the proof of legal control to Mr. Campbell for wells PL1-7 and PL1-8.

7. On September 20, 2010, the Department sent a Notice of Violation (NOV) letter to Rural Water due to construction of wells PL1-7 and PL1-8 without a construction permit. The Department additionally sent an NOV letter on September 20, 2010 to Sargent Driller, the contractor that constructed wells PL1-7 and PL1-8.

IV. CONCLUSIONS OF LAW

The parties agree to the following conclusions of law.

1. Iowa Code section 455B.183(1) provides as follows:

"It is unlawful to carry on any of the following activities without first securing a written permit from the director, or from a city or county public works department if the public works department reviews the activity under this section, as required by the department.

1. The construction, installation, or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto...."

2. Department subrule 567 IAC 43.3(3) requires written construction permits. "No person shall construct, install, or modify any project without first obtaining, or contrary to any condition of, a construction permit issued by the director...."

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Rural Water did not have construction permits for wells PL1-7 and PL1-8. In fact, the construction permit granted on April 8, 2010, stated with specificity that it did not permit construction of wells PL1-7 and PL1-8. The facts stated in Section III of this order disclose construction in violation of the above-cited provisions of statute and rule by not obtaining construction permits for water well construction prior to construction.

V. ORDER

THEREFORE, the Department orders and Rural Water agrees to not construct or modify any water supply system, or part thereof, until the appropriate construction permits have been obtained and to submit as-built plans and specs and fees as required by the Water Supply Engineering Section. Rural Water agrees to pay an administrative penalty of \$2,000.00. Payment of the penalty is due within 30 days after signature by the Director to this order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000.00 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. The maximum amount that can be assessed per order is \$10,000.00.

Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations and deterring Rural Water and others from constructing without permits and other water supply violations is the issuance of an order with a penalty of \$2,000.00. The administrative penalty assessed by this order is determined as follows:

a. Economic Benefit. Rural Water saved the well driller, Sargent Drilling, from having to mobilize and return to the site another time to drill two additional wells. However, this cost savings is offset by the fact that Sargent Drilling was at the wellfield for test drilling on at least two different occasions to drill the production wells and install the pumps, so the mobilization fee was expended anyway. Therefore there is no penalty assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Construction prior to obtaining required permits threatens the integrity of the permit and water supply programs. The public water supply program is

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based on sound construction and requires construction permits to ensure such construction. Here there were two wells constructed without permits. For these reasons, \$1,500.00 is assessed for this factor.


c. Culpability. Rural Water had knowledge of the regulatory requirements for obtaining construction permits since it had obtained construction permits for previous water supply projects. However, Mr. Iedema submitted the necessary proof of legal control of the land surrounding the well locations immediately upon learning of the problem. This is the second order issued to Rural Water for water supply construction without permits. Following the previous violations, the operations supervisor who had misrepresented information to the Department was dismissed. Throughout the duration of the current project, Rural Water has communicated often with the Department. However, since it is a repeated violation, the amount of \$500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175 and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of Rural Water. By signature to this order, all rights to appeal this order are waived.

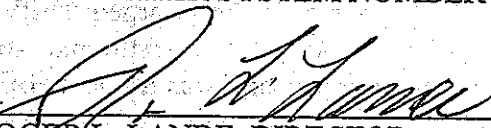
VIII. NONCOMPLIANCE

Compliance with Section V. of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



STEVE HUNT, PRESIDENT
RURAL WATER SYSTEM NUMBER 1

Dated this 5th day of
April, 2011



ROGER L. LANDE, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 11th day of
APRIL, 2011

Rural Water System Number 1- Water Supply Facility No. 8400722, Field Office No. 3 (Spencer)- Ken Hessenius, Field Office No. 3 (Storm Lake)- Julie Sievers, James Warren- Water Supply Operations Section, Legal Services- Diana Hansen, U.S. EPA, I.A.I.